

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

BUCK E. MARSHALL, #1161230	§	
VS.	§	CIVIL ACTION NO. 6:08cv483
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus concerning a prison disciplinary case should be dismissed. The Petitioner has filed objections.

The Report and Recommendation of the Magistrate Judge, which contain his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct.

The Petitioner complained about a prison disciplinary case for sexual misconduct. If an inmate “is entitled to mandatory supervision under Texas law, due process protections may apply to the loss of good time credits.” *Thompson v. Quarterman*, 272 Fed. Appx. 406, 409 (5th Cir. 2008) (citing *Teague v. Quarterman*, 482 F.3d 769, 776-77 (5th Cir. 2007)). In the present case, the Petitioner admitted that he is not eligible for release on mandatory supervision. Indeed, he is not eligible for release on mandatory supervision because of the nature of his conviction. As such, the

punishment imposed in the disciplinary case did not involve a protected liberty interest thereby entitling him to have the case evaluated under *Wolff v. McDonnell*, 418 U.S. 539 (1974). Habeas corpus relief is unavailable due to the absence of a right secured by the Constitution or the laws of the United States. *Malchi v. Thaler*, 211 F.3d 953, 957 (5th Cir. 2000). The Petitioner's objections did not address the conclusion that he did not have a protected liberty interest at stake. His objections did not show that the Report and Recommendation was erroneous or that he is entitled to federal habeas corpus relief. The Petitioner's objections lack merit. The Court thus hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 9th day of February, 2009.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE